



1623 Whitesville Rd.  
Toms River, NJ 08755

December 15, 2004

Mr. William Sessions  
USDA Associate Deputy Administrator  
Livestock and Seed Program  
AMS, USDA

Dear Mr. Sessions,

We are writing to provide comment on the USDA's definitions of "farm-raised" and "wild" as they pertain to cultured shellfish under the Country of Origin Labeling regulation. The East Coast Shellfish Growers Association (ECSGA) represents hundreds of shellfish farmers from Maine to Florida who collectively grow over \$30,000,000 in cultured shellfish. We are concerned that the definition of "farm-raised" may inadvertently exclude certain shellfish farmers who may be using certain low-intensity farming techniques.

Our members use a wide variety of culture methods ranging from intensive culture of hatchery-reared seed in mesh bags to extensive culture of wild caught seed-stock spread on the bottom. It is important that the definitions used in the final rule do not exclude any of our farmers. Since shellfish are sedentary, the definition of "farm-raised" as opposed to "wild" is likely to be quite different than that developed for finfish. Since we do not feed our animals once they are beyond the hatchery stage, this is not a valid determinant for our members. While some of our growers use predator exclusion devices or perform predator removal from their grounds, many of our growers do not need to, so we do not feel that this is a valid determinant either.

The single most important factor that can consistently be applied across the industry is the nature of the grounds where the shellfish aquaculture is being performed. Almost without exception, our growers rear their shellfish on grounds where they have exclusive rights to the shellfish being grown. The ownership of the shellfish and the "lease" or "assignment" arrangement with the state or municipality that governs shellfish aquaculture are unifying factors that should be the determining factors in the definition of "farm-raised" for the COOL legislation. This would be consistent with definitions used in both federal and international law. Not to use these internationally recognized definitions would put some of our growers in the untenable position of having product that is "cultured" according to state laws, but "wild" according to the COOL regulation.

The Food and Agriculture Organization of the United Nations has developed a Code of Conduct For Responsible Fisheries and the United States has co-signed the treaty and agreed to implement its terms. In the Code the term aquaculture is defined as: "...*the farming of aquatic organisms, including fish, mollusks, crustaceans and aquatic plants.*"

*Farming implies some form of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc. Farming also implies individual or corporate ownership of the stock being cultivated. For statistical purposes, aquatic organisms which are harvested by an individual or corporate body which has owned them throughout their rearing period contribute to aquaculture, while aquatic organisms which are exploitable by the public as a common property resource, with or without appropriate licenses, are the harvest of fisheries" (FAO 1997).*

Congress passed the NATIONAL AQUACULTURE ACT OF 1980 which defined aquaculture as "...the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law)."

We recommend a definition of cultured shellfish that does not rely on feeding or containment or the specific farming methods that are used. For shellfish the important factors leading to the designation as "farm-raised" should rely on the ownership of the crop and the nature of the exclusive harvest rights which the grower has on the grounds from which the cultured shellfish are harvested.

It is important that the FDA's definition is coherent with the many definitions used by the states which issue permits and licenses for shellfish culture. Each state has developed unique regulations for the shellfish culture industry within their waters. Since the industry is quite diverse in the methods used, perhaps it should be left to the states to define "farm-raised" as it pertains to the industry in their jurisdiction.

Sincerely, 

Robert B. Rheault, Ph.D  
President, ECSGA